

Governor's Upper Yellowstone River Task Force
Meeting Summary
June 2, 2003
Yellowstone Motor Inn
Meeting began at 7:00 p.m.

I. Introductions

Members Present:

John Bailey, Chair
 Roy Aserlind
 Andy Dana
 Michelle Goodwine

Dave Haug, Vice Chair
 Jerry O'Hair
 Brant Oswald
 Ed Schilling

Rod Siring
 Bob Wiltshire

Ron Archuleta, USFS Ex-Officio
 Tom Olliff, YNP Ex-Officio

Laurence Siroky, DNRC Ex-Officio
 Allan Steinle, Corps Ex-Officio

Others Present:

Liz Galli-Noble, Coordinator
 Kelly Wade, Secretary
 Jacqueline Isaly, Assistant
 Jim Barrett

Scott Bosse
 Chuck Dalby
 Lionel Dicharry
 Tom Hallin

Michael Long
 Bill Moser
 Burt Williams

II. Prior Meeting Minutes

Jerry O'Hair moved to approve the May 22, 2003 Minutes. Rod Siring seconded the motion. The motion passed unanimously.

III. Financial Updates

EXPENDED GRANTS			
Grant Name	Completed	Amount	Study Component
DNRC Watershed Planning Assistance Grant	6/30/99	2,100.00	Physical Features Inventory
DNRC HB223 Grant	7/30/99	10,000.00	Aerial photography
DNRC Riparian/Wetlands Educational Grant	6/30/00	960.99	<i>Hydrologic Response to the 1988 Fires Workshop</i>
DEQ 319 Grant (1 st)	9/30/00	40,000.00	Coordinator position
DNRC Watershed Planning Assistance Grant	1/31/01	10,000.00	Watershed Land Use Study
DEQ Start-Up Grant	6/26/01	49,138.00	Coordinator position, Admin secretary, additional cross-sections, operating expenses.
DNRC HB223	10/1/01	6,500.00	Riparian Trend Analysis
BLM Funding	10/26/01	10,000.00	Wildlife Study
DEQ 319 Grant (2 nd)	3/21/02	58,000.00	Coordinator position
DEQ 319 Grant (3 rd)	9/30/02	44,000.00	Coordinator position
EPA RGI Grant	12/20/02	30,000.00	Geomorphology study
CURRENT GRANTS			
Grant Name	Amount	Spent	Remaining Balance
DNRC RDGP Grant (expires 7/03)	299,940.00	288,621.63	11,318.37
DEQ 319 Grant (4 th) (expires 3/04)	122,200.00	60,586.60	61,613.40

IV. Other Task Force Business

John Bailey: Is there any other business anyone wants to bring up before we go into recommendations? Okay, then we'll move into recommendations.

V. Task Force Recommendation Deliberations

John Bailey: There are one or two new people here tonight, so I just want to go through the *Steps for Formal Action on Task Force Recommendations* (see *Attachment A*) that we're using in our recommendation development process. There's a Step 1, which we do first, where the Task Force discusses topics of interest/concern. Task Force members speak first, then we take comments from the public. At the last Task Force meeting the process was a little freer, and we were actually developing recommendations in that process. In Step 2, the recommendation will be proposed by a voting member of the Task Force. The Chair will then restate the recommendation, and then call for consensus. In Step 2, only the Task Force members are allowed to speak. If we run into problems in Step 2, we then move back into Step 1 for further discussion. Up on the wall behind me, there's a list of the five recommendations that we reached consensus on at the last meeting. Then there is a Step 3, which is a final process that we will go through, once we've gone through all our Topics of Consideration. At some point, we are going to look at all the recommendations that we have made; and the exact wording is:

"At its last meetings, during which the Task Force finalizes the complete set of recommendations to be forwarded to the Governor, Task Force members may not propose new recommendations, but may propose modifications, amendments or deletion of any of the previously adopted Recommendations."

I bring this up because, while these recommendations have reached consensus, they also have to reach consensus as a final package of recommendations in Step 3. Right now we're looking at unique sets of considerations, and hopefully we're going to have time to brainstorm on the big picture, before we move into Step 3. But time may run out on us. We'll see where we get.

At the last meeting, we were talking about Permitting, and as I recall, we had a recommendation that was tabled. I don't know if we want to start there?

#1. Proposed Recommendation by Andy Dana—TABLED

"Establish financial incentives to help landowners, on a voluntary basis, to modify or replace existing structures ~~that no longer function properly or are obsolete with structures that work better~~ to eliminate or mitigate undesirable impacts on the riparian system."

Brant Oswald: John, I'd be glad to start there. Since I was the Task Force member that blocked consensus on the recommendation last week—after some discussion both with my constituency and also with Andy Dana (the author of the recommendation)—I think we've come up with some very minor changes in the language. Maybe we can just go back to that. The reservation that I had about this was over "establishing financial incentives to modify or replace existing structures." We had some discussion about what undesirable impacts were and what a riparian system was; and I think that the main objections were to make sure that, if these structures were modified or replaced, that that was done in what we could call the public interest. That is, we talked about things like structures that might be more fish friendly, or help us maintain riparian vegetation, and the like. After some discussion with Andy Dana, we made one very minor change in the language, and I've been nominated to give you the language, it would read:

"Establish financial incentives to help landowners, on a voluntary basis, to modify or to replace existing structures, provided that such modified or replaced structures eliminate or mitigate undesirable impacts."

And the only discussion that I would add to this is, one, there was some discussion that we had last time; and we haven't done a lot differently with this new wording, but made that last clause a proviso. So that it's clear that the rationale for modification or replacement would be to eliminate or mitigate those undesirable impacts. We wrestled a little bit with the idea of who is going to define "undesirable," and I think our consensus was, among our group here, that we could talk about that all night and I'm not sure that we would get us anywhere. The main thing that we're trying to get at, for the environmental community, the question was just to make sure that, if we're using public monies to fund these financial incentives, to make sure that the replacement or modification was not just done in the interest of one individual landowner. If you'll recall my discussion last time, and I think we've all agreed to that, is that the way that we're going to ensure that that happens is not going to be in our recommendations to the Governor, but in the way that the program is implemented. If this becomes legislation, we're going to have to make sure that the program would allow those financial incentives

to an individual landowner only if it reaches certain criteria, and whatever that program would be, would be the way that those criteria are defined. We don't really want to wrestle with those tonight.

Andy Dana: To add one other detail; Brant also expressed some interest initially in making sure that any modifications or replacements would eliminate undesirable impacts on the natural riparian system. And I was hesitant to agree to that, primarily because there are areas of the river—for example, through town or otherwise—where there really is no longer a natural system; but you can take some actions that will improve the function of the river, regardless of the fact that some of the natural characteristics have been lost. That's where we are.

Jerry O'Hair: Just looking at this, it doesn't address cities, counties, states, highway departments, or anything like that then, does it?

Andy Dana: No. Do you want it to?

Jerry O'Hair: No, I don't. After I asked the question, I really don't think it should, because the beginning of it says, "Establish financial incentives to help landowners" and the public entities can take care of themselves with public money anyway.

Roy Aserlind: I would like to make a comment here, and this is jumping ahead of ourselves, but in view of that established recommendation, if this is passed, I would like to make a further recommendation, an entirely different recommendation, with almost the same wording in it, just strike out the "Establish financial incentives to help landowners, on a voluntary basis," and then "to", and start it out with "modify." As a recommendation coming from this Task Force, and I know I'm jumping ahead, but just looking down the road, and this should, in a sense, answer Jerry's question. I would have two comments in view of this forthcoming recommendation. Number 1, if you'd look on page 3 of the *2002 Annual Report* (the picture of the Interstate 90 Bridge by John Bailey taken during the flood of 1996), you can see a huge lake there, that is backed up behind the Interstate, which in effect, the interstate approaches from east and west have created two large wingdams, both of which have substantially altered the existing floodplain situation. I'm just saying this other recommendation would address that. Another thing is—I don't know if you've had an opportunity to read Michael Long's handout here tonight—I think that would fit in with this particular thing very well: to modify or replace existing structures. It is true that that narrow bridge, heavily armored, between Ninth Street Island and Siebeck Island, is an existing structure, which Michael Long proposed addressing. Eight or nine years ago, I wrote far gentler letters to the commissioners, and the people that I felt would listen, and no one listened. I thought they were clear, I used very gentle language, but I thought rather explicit. Anyway, again, please let me reiterate that if this particular recommendation of Andy Dana's is passed, then I will make another recommendation almost identical to it, starting with the word "modify." I think that's a rather critical element to consider, just right off the top of my head I can think of two existing structures that do violate the existing riparian system; that probably, with at least one of them, require megadollars to modify, but enough said.

John Bailey: Okay, back to Recommendation #1. Comments from the Task Force? Public? A question I have is, what happens if there is a project where riparian is not involved? "Riparian," I'm taking as "the ground," I'm assuming the definition is the ground beside the river, not in the river.

Andy Dana: I don't think that is a fair assumption.

John Bailey: Well, what is? Do we have a good description of riparian?

Andy Dana: Of or related to the river. That's the bed and the banks, as far as I can tell.

Chuck Dalby: I think there is a legal definition of riparian, in which I think Andy is correct; but in a scientific context, the riparian zone, especially in a braided or anabranching channel, could be a quarter-mile or half-mile wide, beyond what you consider to be the actual bed and banks of the channel.

Bill Moser: It seems like it might be wise, somewhere in there, to put "modify or replace or remove existing structures."

John Bailey: We already passed a recommendation that says, “Establish financial incentives to help landowners, on a voluntary basis, to remove structures that no longer function properly.”

Bill Moser: I’m talking about, let’s say FEMA comes in here and offers Jerry \$300,000 to move his house 200 feet out of the flood plain. He’s in the flood plain now, but if there were money available to go up onto the next bench, there might be a few landowners that would save themselves a lot of grief down the road by moving a facility up, out of the flood plain. So, I was wondering about “modify, replace or remove existing structures.” I might be out of order, it might be only up to the Task Force to be saying...

John Bailey: You can suggest things, but Andy would have to modify the recommendation, if he wants to.

Chuck Dalby: I’m wondering who would establish the financial incentives? And then, who administers those incentives; or, if the Task Force views trying to put that kind of specificity into it as part of their mission?

Andy Dana: I’d say the answer is no, we don’t want to be that specific. These are recommendations to the Governor.

Scott Bosse: Would structures include flood control structures: dikes and levees? I know that this is under the bank stabilization topic, but I don’t really see a place under the topics for flood control structures.

Andy Dana: I think whatever people want to define as structures. I think it probably would if it has a deleterious impact on the riparian system.

Scott Bosse: Well, rather than leaving it up to interpretation, I guess I would recommend saying “existing bank stabilization or flood control structures.”

Andy Dana: Well, I guess in the spirit of not boxing ourselves in, I think that “structures” is broad enough to include those; but it might include things that we don’t anticipate today either. So I’m inclined to leave it broad, unless people want to modify it or further define it.

Laurence Siroky: So Andy, does “structures” include a house, now, or not?

Andy Dana: Well, since you’re probably going to be writing the regulations, I think there is some value to the ambiguity there. I think there should be some flexibility to allow that type of financial incentive.

Laurence Siroky: I guess just for everybody else’s information, FEMA does have a Flood Mitigation Assistance Program that provides for monies to move structures out of flood plains, and structures are houses. That it has multiple things for flood insurance. There’s a 75 percent / 25 percent cost share.

Andy Dana: Just following up on that, the 75 percent / 25 percent. With our recommendation to the Governor, the Governor could kick in 10 percent on top of that; so that’s another reason for leaving it broad.

Laurence Siroky: That’s 75 percent federal and 25 percent other funds. Generally, half of that could be in-kind, but the state could also have their own program, where state monies could pay that 25 percent. We don’t have money to do that, with the state, we just have federal Corps money, and the other 25 percent comes from the individual.

Andy Dana: I’ll just address Bill Moser’s concern. I think that his concern maybe merits another recommendation, but removal may be covered in the prior recommendation that we passed by consensus; so I’d like to leave it like this, to see if we have consensus on this one.

John Bailey: Any further comments? We’ll move to Step 2. I will read the recommendation: Recommendation #1, “Establish financial incentives to help landowners, on a voluntary basis, to modify or replace existing structures, provided that such modified or replaced structures eliminate or mitigate undesirable impacts on the riparian system.”

Are there any concerns or questions relating to this recommendation? With no objections from the Task Force, we've reached consensus on Recommendation #1.

Recommendation #1: Passed by Consensus

"Establish financial incentives to help landowners, on a voluntary basis, to modify or replace existing structures, provided that such modified or replaced structures eliminate or mitigate undesirable impacts on the riparian system."

We'll now go back to a general discussion; and Roy, did you want to bring up a new recommendation? I was going to make a comment before you did, though. I thought the specific issue that you were talking about might take a more specific recommendation.

Roy Aserlind: Actually, if I were to make a recommendation, I like the way it's worded there, but just start with the word "modify." As a recommendation going to the Governor, and that word "modify," that would then subsume (it would subtend) county, state, local authorities over their structures. The recommendation that we've just completed said, "individual landowners, on a voluntary basis." This next one would be for those structures over which individual owners have absolutely no call. This could include bridge pontoons, it could include roadways that in a specific instance, separate two channels in which there is at least a five-foot differential in height. I think I'm making myself clear on that. In other words, let's hit an entirely different audience, the state government, local governments, the county governments, the Department of Transportation. I think it would be very essential to them that this would include, if there is any kind of bridge repair done, this would be part of their consideration. Let's modify or mitigate any undesirable impact that this particular structure might have. Bridge footings, foundations, we know the scouring that exists. I would leave it that way, very simple, but then again, thanks to Andy, very pointed.

#2. Proposed Recommendation by Roy Aserlind

"Modify or replace existing public structures that have undesirable impacts on the riparian system, provided that such modified or replaced structures eliminate or mitigate those undesirable impacts on the riparian system."

John Bailey: Comments from the Task Force?

Bob Wiltshire: Roy, just to clarify, would you support putting the word "public" in there, between "existing" and "structures"?

Roy Aserlind: What word in there?

Bob Wiltshire: Public. Or some other word. I mean, as I read this, it also makes it encumbent on private landowners.

Roy Aserlind: I see what you mean. Yes, okay, some of you wordsmiths come up with a good word, or set of words, that would handle Bob's question there, which was a good point.

John Bailey: Public.

Roy Aserlind: Okay, public. I can certainly live with that.

John Bailey: Comments?

Scott Bosse: In this case, would structures include roads? Because roads generally aren't thought of as structures, it's kind of infrastructure.

Roy Aserlind: The intent was certainly to include roads; and again, I'm thinking of one particular road.

Allan Steinle: I understand the intention of these recommendations is to be general, so that the Governor's office is not boxed into any particular action. But it seems to me, in this particular case, you'd want to be more specific; and I think you have a road in mind, Roy, so give an example. I don't understand, when this goes to

the Governor's office, and she reads this, or whoever on her staff reads it, how she's supposed to understand that what we want is the road between the islands, for someone to look at that situation, unless some other additional information accompanies the recommendation. You wouldn't get that from this recommendation necessarily.

Roy Aserlind: Well, I would think the recommendation is broad enough so that... What's your question? Do I have a particular road in mind?

John Bailey: You do.

Allan Steinle: If you want the Governor or someone on her staff, to look into doing something, if all they have to work with is that recommendation, how are they going to end up under the Interstate 90 Bridge? How will they know that's what you want looked at?

Roy Aserlind: Well, have the Governor come and visit me some day. No, I see what you mean. You'd like it to be much more specific; and yet, if it were too specific, wouldn't it rule out some other potential areas of modification?

Allan Steinle: I think you could write it in a way that's specific, you could give a specific example, and still write it in a general fashion.

Roy Aserlind: Dare I do that?

Allan Steinle: Why not?

John Bailey: I think it's so general that it will just go under the carpet. That's my sense. Nobody is going to point to something.

Jim Barrett: Could it be as easy as just saying, "such as," and then name the Ninth Street Isthmus there.

Roy Aserlind: Right. Just call it the connecting link between Ninth Street Island and Siebeck Island. Is that getting too specific? This would be an example.

Lionel Dicharry: I would answer that, Roy, by saying, if you gave only one example, that might be too specific. But you might say, "examples of which are the following," and give a handful of examples of types of structures; and that way you wouldn't have to get quite so specific. The generic "road," "bridge abutment," something like that I think would cover it; and somebody would certainly have something more to hang onto there than "structure".

Roy Aserlind: Does anyone want to postulate...?

John Bailey: Why not two recommendations, one that's general, and then one that's very specific to the Ninth Street?

Roy Aserlind: All right. How can we fix that?

John Bailey: I understand what he's saying. I think the sense of a general one is not bad; but I agree with Allan Steinle that they'll never get to the one you want, if you we're not specific. And I think the one you want can warrant a specific recommendation. It's a big issue. FEMA brings money and they'll only allow you to put it back the way it was. You can't fix it with FEMA; you can only put it back the way it was. They just seem to have no end of money for that, but they don't fix it. I think that warrants a specific recommendation. That would be the way I would handle it, personally.

Roy Aserlind: Let me defer to any input. Would it help if we were to add another example, "and the obstructive nature of the approaches to the Interstate Bridge on the west side of Livingston," or the eastern approach?

John Bailey: Which approach? I'm lost.

Roy Aserlind: On the Interstate Bridge. If you have a copy of the *2002 Annual Report*, it's your picture that graphically, beautifully points out the obstruction that that approach creates—especially the eastern approach to the Interstate Bridge—it obstructs one of nature's great flood plains. There used to be a third channel going along there; that was beautiful.

John Bailey: Do you want my recommendation on that?

Roy Aserlind: Yes.

John Bailey: The only thing the Governor's office said when they were appointing this board in the fall of 1997—because I had told them that we needed the Highway Department, and the Highway Department didn't want to sit on this board, and I said “we need them, they're part of this whole thing”—the Governor's office said, “Well, we don't want to have to rebuild every bridge on the Yellowstone.” So I think when you put the interstate in here, this one gets buried again. I'm sorry to say that, but...

Roy Aserlind: It is still one bridge.

John Bailey: Well, to counter your “one bridge.” It seems to me that we could take Chuck Dalby's list of the bridges and their effects [in the Geomorphology study], and make a recommendation that ties back to that study's findings.

Roy Aserlind: Are you talking about another recommendation or putting it in this one?

John Bailey: I think putting bridges in this one will doom this one, sorry. I think we should tie bridges to the science, because then the Highway Department, if they're trying to do something, they have somewhere to go. That's my only reason for that.

Roy Aserlind: Where would that place us then, on this current recommendation that's under discussion?

John Bailey: I would eliminate what was put in, and leave it generic. Because if we pass that, then I'd make a second one, if I were you, on the Siebeck Island issue. Remember, when we get to Step 3, if we want to bring this stuff back together, we can. After the last meeting, I was wondering if we were getting too hung up on each word, right now. We may get some duplicates, and in the end we want to sort those words out. It's an interesting idea, and I can go either way.

Roy Aserlind: Your position makes sense; so, as you're saying, let's just cut out the specificity there.

John Bailey: I would. We need to see if that passes. Then go to the specific ones, which one could be bridges tied to the science, one could be to the Siebeck issue that is an ongoing problem.

Roy Aserlind: I can live with that, happily.

Andy Dana: I guess my only thought is that this assumes that, it could be assumed, that all public structures cause problems, with this language. I would add, “modify or replace existing public structures that have undesirable impacts on the riparian system, provided that such modified or replaced structures eliminate or mitigate those undesirable impacts.” Something like that.

John Bailey: Is that okay, Roy?

Roy Aserlind: Putting “existing undesirable”, or, what's that again?

Andy Dana: “Modify or replace existing public structures that have undesirable impacts on the riparian system, provided that such modified or replaced structures eliminate or mitigate those undesirable impacts.”

Roy Aserlind: Okay. Sounds good to me.

John Bailey: Comments on this recommendation, as it's written right now? I think with the assumption that more are coming.

Michael Long: My feelings about that particular thing that Roy first brought up, it fits in very well because it pointed to an example that can be looked at and analyzed and regarded as a point that would then go on to other structures. But I feel an example that provides a very clear picture is always an asset, rather than a diversion in other directions. That's all I've got to say.

Andy Dana: I understand the intent of this, but modification or replacement of existing status quo may have some domino effects on other public structures: the High School, the Fairgrounds, lots of private structures. So I don't really, necessarily, have a problem with this; but I don't know if we need to place some limitation, or some recognition, that changes need to take into account existing public and private values.

Laurence Siroky: I guess, Andy, the way that might be addressed would be, if the Highway Department was to modify a bridge or something, then they would go through the EIS process (environmental impact study process). So I would think your concern would be addressed that way. The public would be aware of what the potential impacts are.

John Bailey: Other comments? If not, we'll go to Step 2; and I'll read the recommendation: Recommendation #2, "Modify or replace existing public structures that have undesirable impacts on the riparian system, provided that such modified or replaced structures eliminate or mitigate those undesirable impacts."

John Bailey: Any final concerns or questions about this recommendation?
Task Force members indicated they were not supportive of this recommendation.
Jerry?

Jerry O'Hair: Well, I guess there's a concern that just hit me, and that is dovetailing on Andy's comments, and that is it doesn't take into consideration if you change something, what it might do downstream to impact the human population, or as far as that goes, even the riparian zone. So, I've really got some concerns about coming in and doing something that may have a heavy impact. Because it could have an extremely heavy impact here in Livingston; it may or may not, I'm not sure without some study, and knowing more than what is possible.

John Bailey: Other comments or concerns from the Task Force? Are people comfortable with this?
This lacks consensus. So now we'll go back to Step 1.

Andy Dana: Can we go back to where we were? One possible way to address it is to extend the list of undesirable impacts, not limit it only to the riparian system, but also to other public property or private property. Because then, the modification or replacement could only occur provided that such modified or replaced structures eliminate or mitigate those undesirable impacts, and so you're expanding the universe of undesirable impacts. I'm not sure exactly how to add that, "riparian system or the human environment?"

John Bailey: Excuse me, Andy, I wanted to ask Ed Schilling, because he was not happy with that recommendation. I think we ought to hear from him, since he's representing the public here, to see if this has any chance, in any form.

Ed Schilling: I guess we're mainly talking about a county road, not being indirect...

John Bailey: No, I think indirectly. I think that there are other ones coming that will get there. This is a general one now.

Ed Schilling: My concern is that we're talking about the little piece of road that could wash out, did wash out partially; and my thought is that, if we let it wash out, make it an island out there on its own, what do we do then with the people that live out there? Can we build another bridge? Because then we end up with another bridge that we have the same problem with as we have on the Ninth Street Island Bridge, with logjams. I mean we've heard stories about culverts, all this kind of stuff to relieve the pressure there. I'm not for or against it; my main

concern is what do we do to breach this below that water? And I'm not smart enough to figure that out; but on this same instance, I sense this instance has happened again in the last couple of days. I have contacted the Montana State Highway Department and as soon as the water recedes, we are going to get a hydrologist/engineer in here to look at this situation, to see if that instance (where we're at now) is good or bad, or if something has to be done better. I don't know?

John Bailey: But we could be making a recommendation that that location needs to be studied to find a solution, which helps move your agenda, everyone's agenda.

Ed Schilling: I fully agree. And my next question then is, and I don't know myself, if they're talking about some type of a new structure in there, how do we finance it, the County?

John Bailey: That's why we're making the recommendation to the Governor, and maybe they can help find the funding. I think we have an opportunity here. We need to make it so that it can solve the problem, not create a problem.

Ed Schilling: And finance it.

John Bailey: I think that comes with this.

Bob Wiltshire: Well, I'm going to change the order of what I was going to say, and Andy, I'll come back to your comments. But thinking about where we might go next, I have a recommendation that I'd like to just get up there. It reads:

#3. Proposed Recommendation by Bob Wiltshire

"Implement a solution to equalize water surface elevations in the channels separated by Ninth Street and Siebeck Islands."

My thinking there is, first of all, we're recommending that the Governor implement a solution, and not an unfunded mandate. And I think the real problem is, if we can address the equalization of the water surfaces, it doesn't necessarily have to mean breaching the road. Maybe there is something that can be done at the upstream end before the water ever gets down there. I'll throw that one out, and I'm sure we'll come back to there. Andy, in terms of your concern, I'm wondering if we can fix that by putting a preface on that recommendation. Something that might say, "While preserving existing public and private values" or something like that, and then the recommendation. Would that help to satisfy you?

Andy Dana: It's Roy's recommendation.

Roy Aserlind: Or, could you have "following extensive EIS evaluations?" I think there would have to be an environmental impact study done for anything like this; and hopefully, any kind of environmental impact study would determine if there would be a ricochet effect, or what the downstream effect would be. That would be my assumption.

John Bailey: Comments? We actually have two recommendations up here right now.

Andy Dana: Bob, your proposal would be fine with me. The other possibility, or the words that I used before actually, drawing back to my environmental law days—and this may dovetail with Laurence's comment and Roy's about EIS—if we do add, after "on the riparian system" the phrase "or the human environment," I think the human environment is the buzzword in NEPA analysis for looking at social values, social impacts. I may be wrong. I think maybe we should put up what you proposed too, Bob.

Jerry O'Hair: I was thinking maybe, just to add onto that, "to private and public entities." Would that cover it? "...eliminate or mitigate those undesirable impacts..." Oh, no, that doesn't fit.

Roy Aserlind: "...without adverse effects on other public and private..."

Jerry O'Hair: Yeah, I think that would work, Roy.

Andy Dana: Can you repeat that into the microphone?

Roy Aserlind: "...eliminate or mitigate those undesirable impacts with no adverse effects on existing public or private entities."

Brant Oswald: The one thing that I saw when we started to modify this a minute ago—when we were going to enlarge the potential number of undesirable impacts in the first part of the recommendation—I could see some problems with that. I think adding it on here is the right way to go; but I'm not sure we're going to be able to change those existing structures with absolutely no adverse effects. I'm a little uncomfortable with the idea that, if we're talking about an EIS, we're not going to approve or disapprove this idea... Andy just suggested "with no significant adverse effects".

Kelly Wade: Okay, Roy?

Roy Aserlind: Sure.

#2. Proposed Recommendation by Roy Aserlind

"Modify or replace existing public structures that have undesirable impacts on the riparian system, provided that such modified or replaced structures eliminate or mitigate those undesirable impacts with no significant adverse effects on existing public or private entities."

John Bailey: Comments? We'll take these one at a time.

Bill Moser: I appreciate where you're going here, but it's kind of tragic that at the same time that you're composing this. The intersection at Emigrant, which was just redone because two people have been killed there in the last year, managed to, not the highway itself, but the spoil of the barrow, that came from the highway, erased about 2 ½ more acres of wetlands right at Emigrant, and that's exactly opposite of what your recommendation says. There was a chance there for a guy to build a platform for a shopping center, and here comes all the barrow from the construction. Another thing that's happening down there at this present time is that they're trying to rebuild the East River Road and they submitted an EIS on the first four miles, zero through four. And there isn't so much as one drainage ditch that passes under that area, but they gave the EIS for the entire 12 miles that they want to rebuild, and you've got at least three miles of road that's contiguous with the river. There's no way in the world you can rebuild that road down there, without spoiling in the river, and they say, "Well, we don't need an EIS because there's nothing in the first four miles." I don't know if I'm making sense here or not, but they're putting through an EIS for four miles of road, but the EIS is written to cover 12 miles of road, and it's just exactly opposite of what you're trying to do here.

John Bailey: That's why we're trying to make recommendations.

Dave Haug: I think on that wetland issue that you brought up, that the Highway Department does have a program where they will replace that someplace else, with created wetlands. There's a program that we've gone through in our department anyway, and they actually try to find wetlands that they can replace, because there are situations where they have to widen narrow roads and take out wetlands. So they're under some regulation, they have to create wetlands someplace else. Maybe not right there, but in the region.

John Bailey: Comments on this recommendation? Anything further? If not, we'll go to Step 2. Scott?

Scott Bosse: I just want to get back to the term "structures" one more time here. Because this could be interpreted to mean the High School needs to be modified or replaced. And so one thing you could put after "structures" is, "(for example, roads, bridges)," or limit it to that. Maybe just be a little bit more specific about what you mean by structures here. And, by that I don't mean naming exact roads and bridges, but saying "roads and bridges".

John Bailey: Roy?

Roy Aserlind: If we can handle this, we'll be ready to take on the problems in Iraq. I don't know to what extent we can micromanage a recommendation such as this, which is purely a recommendation. I'm sure that anyone acting upon this would have a group of consultants and would certainly define it. We could go ahead and

decide what are undesirable impacts, what are significant adverse effects, we can talk ourselves into a corner that we can't get ourselves out of. My feeling is that this is sufficiently broad enough, but it has sufficient focus to at least give the Governor's office—to whom we are making the recommendation—something to think about and something to look into. Now this is where, Scott, you and I may be thinking different thoughts, but I can't see the High School as having an undesirable impact on the riparian system. The riparian system has functioned well, far better than the Park High football team. But I don't know how to answer your question, if you want a great deal of specificity.

John Bailey: But you're not taking the suggestion? Is that what I heard?

Roy Aserlind: In essence, yes.

John Bailey: Any more comments? Hearing none, we'll move to Step 2. I'll read the recommendation: Recommendation #3, "Modify or replace existing public structures that have undesirable impacts on the riparian system, provided that such modified or replaced structures eliminate or mitigate those undesirable impacts with no significant adverse effects on existing public or private entities."

Any final concerns or questions from the Task Force? If not, are we comfortable with this recommendation? This recommendation reaches consensus.

Recommendation #2: Passed by Consensus

"Modify or replace existing public structures that have undesirable impacts on the riparian system, provided that such modified or replaced structures eliminate or mitigate those undesirable impacts with no significant adverse effects on existing public or private entities."

Now we're going to move to Bob's recommendation, back to general discussion.

#3. Proposed Recommendation by Bob Wiltshire

"Implement a solution to equalize water surface elevations in the channels separated by Ninth Street and Siebeck Islands."

Allan Steinle: Bob, did you mean at all flows or during high water events, bank-full events?

Bob Wiltshire: In my first draft, I had "high water" in, and as I usually do, I tried to simplify, and started scratching out words. I have no objection to adding "high water" in there.

Allan Steinle: It's not really an issue unless we're at a certain stage.

Bob Wiltshire: Right.

Laurence Siroky: I guess from the hydraulic standpoint, we might not necessarily want to equalize the water surfaces, because the bottoms of the streams may be different. So we certainly don't want to suggest dredging one stream to make sure the water levels are equal. We're not necessarily trying to suggest something to balance, equalize water surface. Does anybody have any suggestions? I guess what you wanted is to make it as natural a system as you can get. Let me think about the wording on that, but I think you have an issue here.

Michael Long: I believe that this is very well worded, because when the river is not dammed and blocked and diverted, and all these things put into it, the surface is basically equalized, and this provides it. So I feel the wording is excellent.

Andy Dana: I guess I would have to disagree with that. There are places on the river where there are what somebody called "perched channels;" there are places where some channels are higher than others, and we can see it just across various portions of the river at our place. I'm not disputing the concepts. I do think that having an ironclad recommendation to equalize water surface elevations, as Laurence says, might be problematic. I think you may be able to achieve the same end without having that mandate. But I don't know how?

Bob Wiltshire: I am perfectly willing to accept any modifications in language on this.

Brant Oswald: I don't have the technical expertise to really speak to this, but it seemed like, Laurence, you just used the term "balance" a minute ago, to implement a solution to balance water surface elevations, where they may not be exactly the same elevation.

Laurence Siroky: Maybe "hydraulically balanced?"

John Bailey: Chuck, do you have a term?

Chuck Dalby: Well, there is a term that you could use, but I think there may be some considerations that go beyond what you're really trying to achieve. You could say, "to balance the hydraulic conveyance of the two channels" and that would imply that each one is—irrespective of the water surface elevations or the relationship between them—that they are each carrying equal flow. How effectively you can do that, is going to depend on what the source of the problem is. If the water surface elevation is five feet higher in one channel because there's five feet of sediment that has built up the channel bed, that's probably going to be something very difficult to deal with.

Michael Long: I believe the main thing we're after here is balanced water flow, because when flow is stopped, we have a dam. When we have a dam, we have water that is locked in and is not able to vent itself; and I think that was, some years back in 1996, Roy Aserlind made an interesting comment on a statement made by Chuck McGowan, who said that, "You vent Monday's water on Monday, you don't have flood problems. But if you wait until the next Thursday, you get all kinds of problems developing." So I believe equalizing water flow rates, or surface elevations, are all pretty clear. Thank you.

Laurence Siroky: That's a good suggestion, to eliminate the backwater. That's really what's happening. There's a dam being created there by the road, so the channel is going to degrade eventually. You want to eliminate the backwater; I think that's kind of the key here.

Michelle Goodwine: I'm just going to take a stab at trying to, I guess attempting to, fix this so that it will work for everyone. Where you have "Implement a solution..." instead of "equalize," insert "achieve hydraulically-balanced water-surface elevations." Then we don't have to worry about scouring or equalization, it would just be more of a natural approach; but it still gets at the point of trying to get the balance there. Does that work, Laurence?

Bob Wiltshire: Fine.

Michelle Goodwine: "...to achieve hydraulically-balanced water-surface elevations..."

Laurence Siroky: "...with minimum backwater, or with no backwater..."

Michelle Goodwine: Take out "equalized".

#3. Proposed Recommendation by Bob Wiltshire

"Implement a solution to achieve hydraulically-balanced ~~equalize~~ water-surface elevations, with little or no backwater, in the channels separated by Ninth Street and Siebeck Islands."

Bob Wiltshire: By "backwater" are you referring to the big eddy by Roy's house?

Laurence Siroky: Backwater refers to, hydraulically it means that there is something downstream causing a damming effect. So if there was no damming effect, you'd have a natural level of the stream. If there is a backwater effect, then there's a dam, which raises the water surface unnaturally. Natural systems do that too.

John Bailey: Laurence, if Stan Sternberg [Montana Department of Transportation] was here, he'd have a problem with that, wouldn't he? Since the bridge approach is causing the backwater.

Laurence Siroky: Yes, if Stan was here, he'd probably have a problem with this. The way that floodplain law is written, and maybe Andy Dana can help me, when the Highway Department proposes to put a bridge in, they can't have more than a half-of-a-foot raise in the backwater of any water level as a result of that bridge's piers, abutments, and so forth. We've been trying to get the Highway Department to agree to a zero rise in backwater. But as you know, that increases the costs and the lengths of the bridge, so they've been reluctant to do that. It's 90 percent federal money and 10 percent state money, and that takes the 10 percent of state money that they don't have.

Roy Aserlind: Perhaps it would be a little bit more explicit to say, "little or no backwater in the channels separated by the Ninth Street and Siebeck Island connecting road." That's where the problem is, is that connecting road. And if I can make a parenthetical statement here, that when that blew out in both 1996 and in 1997, the flooding, as far up as Carter's Bridge, was eliminated. The backwater was eliminated, parity between channels was pretty well established from that point down. And I could add that, at least as far as I could see, there were no negative effects from pushing that flow into the east channel at the point where the confluence occurred. That is heavily armored down there, so I could see no long-range effects from it. I would also mention, someone raised a comment about what could be done—I guess Ed Schilling mentioned it—about the logs and things. I think a single-span, arching bridge, would do it. And the lowered water level would certainly mitigate things. Yes, there would be logs, there's no way to get around logs. Again, I'm not saying this for effect or anything, but as Tom Hallin can attest, all that spit of land is our property, we own the property clear down to the Interstate Bridge, and I will gladly donate it to whatever entity. I've given it to the river a couple of times.

John Bailey: Other comments? Bob?

Michelle Goodwine: I was just going to say that, by putting it in right where Kelly's got the cursor now, concerning the road connecting.

Bob Wiltshire: I'm reluctant to accept that, and the reason why is that it presupposes that there are no other options. I'm not sure—there are a lot smarter people than me about this—but is there a possibility of doing something at the upstream end of the island to equalize the flows there, before we ever put the pressure on the road connecting the islands?

Roy Aserlind: I think they tried something. John, do you remember?

John Bailey: In 1996, they dredged it.

Roy Aserlind: Three or four years ago, they dredged it, right, and of course that fills in with rocks every year. I think it helped a little, but it is an option, and I'm certainly not against looking at any option.

Bob Wiltshire: My only concern is if we say you have to deal with this neck of road, we're saying there are no other options.

Roy Aserlind: Well I suppose it takes somebody other than me to decide if there were options. I'm looking at the obvious one.

Allan Steinle: I know back in the late 1990s, the County submitted an application to remove that material, and also part of that project was a study, that I believe a consultant in Bozeman undertook, to look at options for modifying the flows on the sides of Siebeck Island. There was actually some proposals floated that involved either cross-channel weirs, or a series of barbs or veins; and the County pulled that project off the table before it ever went beyond design. I don't know why?

Michael Long: Regarding that, I don't think anything speaks louder and clearer and more vividly, than an event that happens. And clearly, in this flood, Roy brought out two floods, 1996 and 1997, were ended within an hour after the breakthrough of that point. Now, I'm a firm believer that rivers know how to flow better than anyone else in this room, better than the Governor's office, or anyone. And if we watch where the river wants to go, let that river be the determinate engineer, and support that flow, we don't have floods. The minute we start telling the river that it can't go there, but we'll let it go there, and there and there, that, in every case, on every river that

I've ever known, including the Mississippi disaster, is people telling the river where they want it to go, instead of listening to the river and going along with it. Two floods were ended in a short amount of time, and tremendously desirable effects reached. Why fight that? Thank you.

John Bailey: Other comments on this? Jerry?

Jerry O'Hair: I guess I don't know quite how to approach this but, in the last few days I've had numerous calls from landowners up and down the river, and this particular recommendation I know is dealing with Ninth Street and Siebeck Islands, but there's been numerous landowners calling me that were concerned about blockage in the river. There's cottonwood trees, islands of gravel and rock, and they gave me hell because the Task Force has not addressed the gravel bars and the amount of rubble that's in the river; and consequently, it's causing property damage. So, to address just this one part of the river, and not address the others, I have a bit of a problem with it. I thought that we were going to look at the river in its entirety, and not just a small portion of it.

John Bailey: Then, make a recommendation that applies to the broader system. One concern I have is that we seem to take individual recommendations as the end-all, and my sense is that we ought to build some on these individual ones. Then when we get to Step 3, then maybe we can bring one together that several of these are under. It seems to me that if we can get ideas down on paper. We spent a lot of time saying that nothing is final until we get to Step 3, and we will then look at the whole. I don't know that we can build the whole first. My sense has been, if we build a lot of pieces, then maybe we can see the whole later. That's my personal view. So I wonder what's our best approach? But we do have the third part to try too, if we've got various ones, with the volunteer things, do we make some broad statements that then there are points underneath? I'm not sure where we're going to go?

Jerry O'Hair: Well, I guess then that the recommendation as it stands is okay. However, we can make a recommendation that goes beyond the Ninth Street and Siebeck Islands.

Tom Olliff: Jerry might have just answered my questions. Maybe we need a second recommendation. This might be enough of an issue to make a stand-alone recommendation. Jerry, you might have almost a totally separate issue.

John Bailey: Other comments on this recommendation?

Tom Olliff: I guess I have a question about that connection between those two islands. Is that a man-made connection?

Roy Aserlind: No, it is not man made. Tom [Hallin], how far back do your surveys go?

Tom Hallin: To 1965.

Roy Aserlind: You had some old maps, back in the, I think, 1870s or so.

Tom Hallin: It might be on old maps, I don't know?

Roy Aserlind: Oh, well you showed me something. As long as I know, no, that isn't a man-made connection, it's been man-reinforced. There was essentially no problem until the Interstate was built, and the creation of that backwater, and then the build-up in there. That's always been that way, is my understanding. But you can't say it's not man-made now.

Michael Long: Just one point: let's not forget that it isn't the Ninth Street and the Siebeck Island that are the cause of the blockage, it's the connecting road between them. So, if you just simply said, "the channels separated by the Ninth Street and Siebeck Island connecting road," it would clarify that greatly.

Bob Wiltshire: You can tell how decisive I am on this one. I don't have a problem with putting that in. My problem is that it limits us. Now we're saying you only need to address backwater at this spot, where the islands are connected by the road. Whereas, not putting that in says that we want to achieve a hydrologic balance throughout those channels. If the group would rather see that put in, I can certainly live with that.

John Bailey: Well, if there are no further comments, I would like to go to Step 2 on this recommendation, and see where we stand. I'll read it: Recommendation #3, "Implement a solution to achieve hydraulically balanced water surface elevations, with little or no backwater, in the channels separated by the Ninth Street and Siebeck Islands."

Are there any final concerns or questions related to this from the Task Force? Are we comfortable with this?

Jerry O'Hair: I'm not very comfortable, but I won't stand in the way.

John Bailey: This recommendation reaches consensus.

Recommendation #3: Passed by Consensus
"Implement a solution to achieve hydraulically-balanced water surface elevations, with little or no backwater, in the channels separated by the Ninth Street and Siebeck Islands."

Okay, we're now back to Step 1. We were going to be talking about Permitting today, but I'm not sure we're doing it; but we're making recommendations, and that's even more important.

Michelle Goodwine: John, I think we still have a recommendation that we haven't gone over.

John Bailey: Which? Oh yes, Jerry O'Hair's recommendation; that was one that was talked about at our last meeting and Jerry tabled it. If he wants to bring it up, he may.

Jerry O'Hair: I'll going to hold off on that.

John Bailey: Okay, thank you. Laurence?

Laurence Siroky: Didn't Roy have another example? You had a couple of examples when we were talking about the general recommendations. One example was the Siebeck Island, but didn't you have another example, wasn't there something?

Roy Aserlind: Another example dealt specifically with the eastern approach to the Interstate Bridge, and, I don't know, that's probably too great of a problem. If anyone has any questions, look at the *2002 Annual Report*, page 3, photograph by John Bailey, 1996, and that tells it all.

Laurence Siroky: Go back to the recommendation we just adopted. So after "channels," put "above the Interstate" and that takes care of it.

John Bailey: That one's done.

Laurence Siroky: I know, but as another recommendation.

John Bailey: I think the recommendation is, and Chuck I've got to look to you, is to recommend that when bridges are replaced, you have them lessen their impacts. I'm not sure the words to use to refer to your list that you showed us in your last presentation.

Chuck Dalby: I'm not sure I understand you.

John Bailey: You addressed the bridges on the Yellowstone in your study report, some had little, moderate, or high effects. With some there were no effects. We would want to lessen those effects, where there are effects. We need to give reference to that table in your report.

Chuck Dalby: Yes, there is a table in the April 29th Report that addresses the bridges. There are 14 bridges on the Yellowstone. They were ranked, just using relative ranking criteria, from no effect to low, moderate, or high.

John Bailey: I did want to recommend that when bridges are replaced that their impacts be lessened. I guess there would be a question as to if we need the low impact ones modified, and the moderate and high ones to be lessened. I would start somewhere there, and we can figure it out. I don't know what people are comfortable with? Do you remember some of the low ones, just so we have a reference, which ones those were? I think Pine Creek was low, am I right? Do you have that list of bridges with you Chuck?

Chuck Dalby: I think so. The Corwin Springs, Point of Rocks, Pine Creek, and Ninth Street bridges were ranked as having "low" impact, and the impacts were based on backwater effects and largely upstream channel aggradation.

Laurence Siroky: What are the high impact ones then?

Chuck Dalby: The Interstate-90, the old highway-combined-railroad bridges, and then the railroad bridge/highway bridge near the Shields River, those three were the highest.

John Bailey: Were there any medium impact ones?

Chuck Dalby: Carter's Bridge, and the Emigrant Bridge, and the Springdale Bridge were moderate.

John Bailey: Is that the new Springdale?

Chuck Dalby: Yes, that is. Actually, the old Springdale too.

Laurence Siroky: We're just talking about state highway bridges? Railroad bridges, highway bridges, are the ones he referred to.

John Bailey: Did you have the railroad bridge in?

Chuck Dalby: Yes.

John Bailey: He had the railroad bridge in also.

Laurence Siroky: So, then are the County bridges included?

John Bailey: Ninth Street is a County bridge, right? Yes.

Dave Haug: Is the Ninth Street Island low impact?

John Bailey: He said Ninth Street Island Bridge is low impact. The Interstate Bridge is high.

Dave Haug: If Ninth Street Island Bridge is low, I think we ought to include low-impact bridges in there too, because that needs to be included too.

John Bailey: That's fine; I have no problem with that.

Laurence Siroky: Why, Dave?

Dave Haug: Why? Well, if you go down there and look at it, you'll see that all the piers impact the river as far as the erosion below it. We've [Park Conservation District] had to address that, and had a problem by the greenhouse there; that's probably been created since some other work has been done in the area. It also greatly impacts floaters going down through there, at all flows; not only high but low flows. People have a lot of boat wrecks there. Eventually, it's been my opinion, you're going to see some big problems there with all the trash build up there. And, some time or another, it's going to be a problem, it's a major wreck in my mind.

Laurence Siroky: ...more than just backwater, is what you're saying?

John Bailey: Right, yes, and Ninth Street does have a problem. I think the County would be very happy not to have a person out on a backhoe, because the liability when that goes over is astronomical.

Andy Dana: Can I just suggest that we, rather than refer people to the Geomorphology study, we name the bridges—we know what they are—in this recommendation?

Michelle Goodwine: And attach it?

Andy Dana: Well, why can't we just say that "when the I-90, the old highway and railroad bridges, Shields River Bridge, Carter's, Emigrant, Springdale, and Ninth Street Island Bridges are replaced"?

John Bailey: Does that list all the ones that were on the list with effects? I don't have that list with me.

Andy Dana: I'm just trying to simplify it a bit.

John Bailey: I understand. But we need the list.

Chuck Dalby: I guess if you want to add those, I can read them off.

John Bailey: Would you please? Please, read them.

Kelly Wade: Okay, hold on. How about "recommend when the following bridges are replaced:".

Chuck Dalby: Emigrant, Carter's, I-90, we'll throw Ninth Street in there because Dave seems to think that is a good idea, the old highway/railroad bridge, the highway/railroad bridge near the Shields River, and the Springdale Bridge.

Bob Wiltshire: Chuck, on the old Highway 89 Railroad Bridge and the Highway Railroad Bridge, aren't we talking about two bridges at each of those locations?

Chuck Dalby: Yes, we are.

Bob Wiltshire: So I think we need to reflect that.

Michelle Goodwine: It's Highway 10 East Bridge, and the other one is the 89 Bridge.

Kelly Wade: So the railroad bridge is Highway 10 East Bridge?

Michelle Goodwine: Well, it's two different bridges, but it's the railroad bridge at Highway 10 East, because the other one is the 89 Bridge. That's what we call it.

Bob Wiltshire: Take out "old highway 89".

Michelle Goodwine: It's the Railroad Bridge at Highway 10 East. Then drop down to the next one: old highway railroad bridge, that is the 89 Bridge; and then the Railroad Bridge at Highway 89, or next to Highway 89, or something.

Bob Wiltshire: Now, Kelly, I would suggest you eliminate the two "olds."

John Bailey: Now we don't need to say or utilize the Geomorphology study. "...when the following bridges are replaced...". It's not going to ever read right. "...the impacts of the bridges...". Andy, did you think about how we were going to reference this now that we've got all the bridges in there?

Andy Dana: "...recommend that when the following bridges are replaced, impacts to the river be lessened," something like that.

John Bailey: Okay.

Andy Dana: "...impacts of the bridges on the river be lessened."

Brant Oswald: I was going to suggest, Chuck has this "impacts on the river." How did you actually define the impacts in the study? I remember it was physical impacts; Chuck, can you give us something a little more?

Chuck Dalby: I used two general criteria. One was the amount that the 100-year floodway was constricted and, although I didn't do this rigorously, but basically at the 100-year floodway. Recall that the floodway is the central threaded flow that carries the main force of the water, as opposed to the 100-year flood plain. So it's more of an active channel. But generally, if that were constricted by more than 30 or 40 percent, that would be a "high" impact; and all of the bridges that had the high effect are pretty severely constricted. The second criteria was to look at the bridge site for those bridges that existed in 1948, and then look in 1999, to see if there were differences in the number and size of gravel bars above-and-below where the bridge axis crossed the river. And that was used as a qualitative index of whether or not the bridges had caused sediment buildup or aggradation upstream of the bridge. Then, just based on those two criteria, I ranked those 14 bridges from no effect to high effect.

Dave Haug: I've got two little things we probably should include there; one for sure. Where we put "replaced", put "or removed," because the railroad bridge out here, at some given point in time is going to be removed, or should be removed, because it is no longer used by the railroad. And also possibly put in there something to the effect of "funding not necessarily from owners of bridge," because you may find some source that will remove that bridge and/or the Ninth Street Bridge too.

John Bailey: How about a second recommendation? One of my pet peeves is that we're building a lot of new bridges along the Yellowstone, and all the old bridge abutments are still there, usually more narrow than the new bridge. At Springdale they left one of the old piers in the river. All the equipment is sitting there, when they put in the new one they could just take the old ones out. Outside of the county down at the next access below Springdale, the old bridge abutments are there, and they're narrower than the new ones. So they made the bridge wider but the river didn't get any benefit. I'm thinking that maybe we just have a specific one that deals with removal.

Dave Haug: Okay, I'd go with that.

John Bailey: Other comments on this one?

Laurence Siroky: We should get all the bridge recommendations done before Stan Sternberg gets back.

John Bailey: He'll never miss another meeting.

Laurence Siroky: The way the existing State law reads, and I believe Park County is the same, is that when you put a new bridge in, the backwater effect can't raise the base flood elevation any higher than a half-a-foot. Now, one of the things I talked about earlier, was a recommendation where you want it to not be raised at all, zero. I guess that's kind of a qualifier here for the "lessen"; what do you want? Because the State law says it has to be less than a half-a-foot.

John Bailey: Laurence, using the bridge on the east end of Livingston, the control is not the highway bridge, but the railroad bridge next to it. So they are going to replace the bridge, and, if they're not in control, and we say six inches, they can just put it back in as is, right?

Laurence Siroky: Yes, I guess Stan talked about that being an issue, that's true.

John Bailey: So, we want to lessen the impact of that bridge.

Andy Dana: I think maybe Dave mentioned it before, someone mentioned it. Do you want to limit it only to replacement, or do you want to expand it to "modifications or repairs"?

John Bailey: If you'd like, I have no problem with that. I think when most of it is going to happen is with the replacement, where you can open them up.

Andy Dana: Except if the recommendation is that when they modify or repair it, then you're forcing the action a lot sooner than allowing them to continue to modify and repair, and modify and repair, and not replace, without any mitigation effect on the river.

John Bailey: Do you have the words?

Andy Dana: "Modify and repair."

Michelle Goodwine: Can we clarify this a bit. Andy, what you're intending is that any modification at all will result in a lessened impact on the water. But I'm wondering if that might be too restrictive, because then they won't even modify a handrail. If somebody drove through the side, or knocked it out, that would qualify as them needing to lessen the impact on the water.

Andy Dana: I don't disagree, and I don't know that I really had any intent by raising that issue. I just threw it out because this is John's recommendation.

Michelle Goodwine: Well, maybe it would be "any modification or repair;" replacement stands on its own, but "modification or repairs to abutments, piers," the actual things that effect the water flows; so that that doesn't involve surfacing, if it has to be resurfaced. I would hate to see our bridges not get fixed because they'd have to replace them in the process.

Bob Wiltshire: My question following on that is, what would have happened at Carter's Bridge, where they had to do the emergency flood work?

Andy Dana: I wouldn't have minded if they'd opened the channel a little bit there.

Bob Wiltshire: Yes, but you've taken an expensive job and turned it into an outrageously expensive job.

Andy Dana: Well, that was actually another question that I had, John, is whether this is just going to get us into the comment that you made about the first directive from the Governor: that they don't want to have to replace every bridge in Park County.

John Bailey: That's why I suggested having them address the issue when they're replacing the bridge, because I don't think you're going to get anywhere when they're simply doing repairs. I think that's often not going to open it up. But when they have to replace it, and with what we learned when they started looking at the bridge at the east end of town, once that process is rolling, they have to take input. When we were down there with the Highway Department, they said they were looking for a detour. I said, "What do you mean?" They said, "We're just going to close this road off," and I said that I didn't think they could do that because they close the interstate because of the wind in the winter, and this is the main road. And his eyes started rolling, and he said, "Oh, we've got to have three bridges here now." Well, why are we talking three bridges? "Well, we've got to have a temporary bridge, we've got to rebuild the new bridge, and then have a work bridge." That's three bridges across that span. How they're doing that, I have no idea? But they've just said that the price is just skyrocketing here; and they hadn't even thought about the fact that the interstate is closed due to wind and snow blizzards, so that they had to maintain it. They were just going to close it, but they can't. As they learn things, it just gets more expensive, and I believe the Corps has made some comments that they needed to widen the bridge. Then the community wants a pathway on it, and so it isn't just what we think; everyone is making it into a more expensive bridge, but that's what happens when there is new information. I don't think much is going to happen on repair, because Carter's was done; I think they declared it an emergency, didn't they? I don't think we're going to get the results we want.

Andy Dana: So do you want to take that out, "modify and repair?"

John Bailey: Yes, I don't think it's going to do us any good.

Andy Dana: That's fine with me.

John Bailey: Let's remove it please.

Bob Wiltshire: I have a question: "...impacts of the bridges on the river..." Would you be willing to change that to something like "identified impacts?"

John Bailey: In the study? My sense is tying it to the study is beneficial. That there was something that happened once, that there was at least some definition to, that one could look at.

Bob Wiltshire: But then we've taken and added Ninth Street Bridge in, which is not identified in the study as having significant impact.

John Bailey: It has a low impact.

Bob Wiltshire: Low impact, right. At Ninth Street Bridge, I'd like to see them mitigate there for floating hazard, but that's not an impact on the river.

John Bailey: So what are you recommending?

Bob Wiltshire: That we change the wording to "identified impacts."

John Bailey: I'll change it to that the "identified impacts of the bridges..." Is that right?
Other comments?

Andy Dana: Could it just say, "impacts identified in the Geomorphology study?"

Michelle Goodwine: Except Ninth Street doesn't fit that.

Andy Dana: That's right. Can we add a separate recommendation for Ninth Street?

John Bailey: Why not? We can have one that deals with navigation issues, if we want.

Bill Moser: Laurence has twice, not subtly, indicated that we lessen it to zero backwater, and I don't understand the silence there. You have a goal, and the goal is to, whatever these obstructions are, they are no longer obstructions.

John Bailey: Chuck, you wanted to make a comment?

Chuck Dalby: I was going to make the same exact comment that there probably needs to be something in there specific about the impact that needs to be lessened. And one way to do that is to tie it back to the Geomorphology study, but then that causes problems with the Ninth Street Bridge. The other way to deal with it, would be to say that when the bridges are replaced that the impacts on, or that backwater effects, be minimized or held to the criteria that Laurence has talked about; and some wording in there that deals with recreational passage of the structures be preserved or enhanced. That way it gives specificity to what the impacts are that need to be lessened.

John Bailey: One could argue that if we're vague, there may be new impacts that we learn about in the future that we could add.

Allan Steinle: Chuck suggested adding language about recreational passage and somebody else mentioned, maybe pulling Ninth Street out and making that a separate recommendation due to recreational floating. If you did that, there's another bridge that's scheduled for replacement at Corwin Springs, which isn't quite the same issue as Ninth Street, but the design that MDT is considering for that bridge would place a bridge pier in the active channel, where there is none right now. So, if that's an issue of importance to the Task Force, and you made recreational passage its own issue, if you chose to, you could add Corwin Springs Bridge as well.

Andy Dana: I am reading an unspoken subtext here of some agency rivalries going on that I'm not sure we want to get in the middle of. So, I'm inclined to keep in general, as you said, John.

John Bailey: Other comments? Not hearing any, we'll move to Step 2 on this recommendation; I will read the recommendation: Recommendation #5, "Recommend that when the following bridges are replaced, identified impacts of the bridges be lessened: Emigrant; Carter's; Interstate-90; Ninth Street Island; Railroad Bridge at Highway 10 East; Highway 10 East Bridge; Highway 89 Bridge near the Shields River; Railroad Bridge at Highway 89; and Springdale Bridge."

Any concerns or questions related to this recommendation from the Task Force?

Andy Dana: I'm going to block this because I think it is too vague to talk about identified impacts of the bridges be lessened. Identified impacts could be good impacts, they could slow water down upstream of bridges and create shallow water habitat for fish. I think we need to specify what impacts we're trying to lessen.

Michelle Goodwine: Will referencing the Geomorphology study at that point, identify the impacts, other than the safety issue, because what I remember was that in there, Chuck, the safety issue at Ninth Street Island?

Andy Dana: That would be a big step in the right direction.

Michelle Goodwine: So, inserting that reference...

Andy Dana: That would help me, yes.

John Bailey: But we're taking it as is right now. So are we comfortable?

Andy Dana: No.

John Bailey: This recommendation dies for lack of consensus. We're now back in the general discussion.

Andy Dana: I would propose going back to and adding, "the impacts of bridges identified in the Geomorphology study be lessened," and strike "Ninth Street Island." If we want to address the problems at Ninth Street Island, we should do that separately. That's my suggestion, but it's your recommendation.

John Bailey: It's yours now.

#6. Recommendation by Andy Dana

"Recommend that when the following bridges are replaced, the impacts of the bridges identified in the Geomorphology study be lessened: Emigrant; Carter's; Interstate-90; Ninth Street Island; Railroad Bridge at Highway 10 East; Highway 10 East Bridge; Highway 89 Bridge near the Shields River; Railroad Bridge at Highway 89; and Springdale Bridge."

Lionel Dicharry: That's ambiguous, because when you're saying "...impacts of the bridges identified in the Geomorphology study," you mean to imply the impacts, as well, identified in the Geomorphology study.

Andy Dana: Can you wordsmith?

Lionel Dicharry: "Recommend that when the following bridges are replaced, the impacts identified in the Geomorphology study..."

Liz Galli-Noble: Instead of "lessened," how about just be "addressed," or be "specifically addressed".

Andy Dana: Sure.

Bob Wiltshire: My question is that, if we're specifically referencing the bridges identified in the Geomorphology study, why do we need to list them all?

Allan Steinle: It doesn't include the low impact bridges.

Michelle Goodwine: Then I guess, Allan, you're just saying that the impacts be specifically addressed. When we say that we wanted it to be lessened, now I'm seeing that, by specifically addressing them, what are we accomplishing? What are they going to address? Is there an implied?

Andy Dana: Let's put "lessened" back, I like that better.

Liz Galli-Noble: I agree with that.

Michelle Goodwine: Do we want to be specific; that they have to improve their status from medium/moderate to low, and from high to moderate?

Tom Olliff: I was going to suggest that: from high to low, and from moderate to low. I was going to ask Chuck if that's possible?

Chuck Dalby: It's probably all a matter of cost. You can certainly build a new bridge across the Yellowstone River without raising the 100-year flood elevation at all; but the cost of the additional increment of span to go from a foot, or a half-of-a-foot of rise in water surface elevation on a very large bridge may be millions of dollars in increased cost. So I guess the answer is yes. Whether or not it's pragmatic, depends.

Andy Dana: I think I agree with Lionel. I think we should strike, after "impacts," "of the bridges" because it's obvious that we're talking about bridge impacts, because we're talking about replacing the following bridges, so "impacts identified in the Geomorphology study." Strike "of the bridges" after it. And I don't know if it would be even better if we said "negative impacts" or "adverse." No, I don't think I want to do that.

Bob Wiltshire: "...hydrological?"

Andy Dana: Yes, "hydrological impacts," that's good. "...hydraulic impacts."

John Bailey: Comments? Laurence?

Laurence Siroky: I guess a point of clarification, and maybe I'm missing something, but I think since base flood elevation can't be raised more than half-a-foot at present, it seems to me, when you say "lessened" you mean something between zero and half-a-foot.

Andy Dana: Well, when some of these bridges are replaced, the existing law may be radically different.

Laurence Siroky: Say that again.

Andy Dana: When some of these bridges are replaced, the existing law may have changed radically, so I'm not sure we want to tie it to existing law.

John Bailey: Other comments? Hearing none, we'll move to Step 2. I'll read this: Recommendation #6, "Recommend that when the following bridges are replaced, hydraulic impacts identified in the Geomorphology study be lessened: Emigrant Bridge; Carter's Bridge; Interstate-90 Bridge; Railroad Bridge at Highway 10 East; Highway 10 East Bridge; Highway 89 Bridge near the Shields River; Railroad Bridge at Highway 89; and Springdale Bridge."

Any concerns or questions on this recommendation from the Task Force?

Andy Dana: I think I'd like to make a change, and I think I can do that since I'm now the sponsor. "...are replaced or removed..." That's to address the Railroad Bridge.

Dave Haug: Well, as long as we're including that, then should we, I was going to draft another deal as far as removing that bridge, and also the bridge abutments and possible the other concrete structures or something. Should we tag that on into here too?

John Bailey: Well, you can't modify it.

Dave Haug: Well, I was asking him if he wanted to modify it.

Andy Dana: No, let's do that as a separate one. We'll have some overlap, but we can address that later.

John Bailey: Any other concerns? If not, are we comfortable? Okay, this reaches consensus.

Recommendation #6 Passed by Consensus

"Recommend that when the following bridges are replaced or removed, hydraulic impacts identified in the Geomorphology study be lessened: Emigrant Bridge; Carter's Bridge; Interstate-90 Bridge; Railroad Bridge at Highway 10 East; Highway 10 East Bridge; Highway 89 Bridge near the Shields River; Railroad Bridge at Highway 89; and Springdale Bridge."

Now we're back to general discussion. Are you making a recommendation, is that what I hear?

Dave Haug: Well, I guess I started one here. I started out with:

#7. Proposed Recommendation by Dave Haug

"Recommend that identified artifacts, such as non-used bridges, bridge abutments or other structures that create backwater or safety hazards be removed, not necessarily requiring the funding to come from the owners of the artifacts."

The reason I put that in there is that, like the railroad bridge out there, we may find some other source for these bridge abutments; we may come back to the Highway Department or some other place. We can tie this into even possibly irrigation sumps or something that aren't being used, and not necessarily requiring the owner to come out and say, "you've got to remove it in such and such days," because I don't necessarily think that is totally feasible.

Michelle Goodwine: I did have something that kind of goes along with that, when we also addressed recommending that abandoned approaches be reclaimed.

Dave Haug: I think we can tie that in with bridge abutments, if you want to change the wording there to put that in, that's kind of the same.

Michelle Goodwine: Well, this is saying bridge abutments be removed, but it doesn't address reclaiming on the surface. It's talking about more on the banks and into the water, and it's not addressing the approach.

Dave Haug: So, put it in there, "removed and reclaimed?"

Allan Steinle: What if something is just ugly? Not a safety hazard, not creating backwater, just abandoned and it's ugly?

Dave Haug: I think that could fall under this "or other structures." Do we really care, personally, from my aspect, I'm not as worried about graffiti on the side of a bridge, as I am about a safety hazard, or a structure in the river.

Allan Steinle: I know it's shaky, and it's hard, it's a subjective thing, but just because of the recreational use of the river, it might be worth considering.

Dave Haug: How do we identify what is going to be considered ugly? That's too much of a subjective deal. I would have a hard time putting it in there, because somebody may not agree. I'll give an example, we've got a

pivot out on my place and the neighbor said, “I think it’s ugly. We’re going to have a party, so you’ve got to move it away from that fence.” I mean ugliness, it’s subjective.

Allan Steinle: Yes, well, I was talking about things in the river, not up on the bank necessarily; but I realize just the subjectivity makes that a hard issue to deal with. And I wouldn’t have even mentioned it except for the recreational use in the language.

Bob Wiltshire: Allan, do you have an example of that?

Allen Steinle: No.

Tom Olliff: If it’s in the river, wouldn’t it cause some kind of backwater, even if it’s a small amount it would be covered by this?

Allan Steinle: I don’t know if it would be an issue.

Andy Dana: Actually, that’s my concern, is that this may cause problems if there are places where there are degrading riverbeds, and there’s some solution that needs to create a backwater effect to create deposition areas. This may backfire on goals that we would want to encourage; rate-control structures.

Dave Haug: Such as irrigation structures?

Andy Dana: Yes, irrigation structures.

Dave Haug: That’s truly a factor.

Allan Steinle: How about “undesirable” or “non-beneficial backwater” or something?

Dave Haug: Should we put in something, if you have any wording, like, “a structure that is being used.” What we’re trying to create here is something for non-used bridges, in essence, all non-used structures. Can we clarify that some way?

John Bailey: Why not put, “Recommend and identify non-used artifacts such as bridges, bridge abutments.” If you put “non-used” in the beginning, that then defines all of them as non-used.

Bob Wiltshire: Or “non-functional,” they’re non-functional.

Dave Haug: Yes.

John Bailey: Determined by whom, non-functional? You might consider an irrigation thing non-functional when the person who has it is using it.

Bob Wiltshire: By functional, I mean something is functional or it’s not. It serves a purpose or it doesn’t. If it is designed to serve a purpose and it’s not serving that purpose, it’s non-functional.

Michelle Goodwine: Without meaning to sound like I’m reading my recommendation, just let me express what I was going to suggest, which goes right along with this, to see if it gets to the same place, so that we can combine both of them. “To remove abandoned abutments and piers when bridges are removed or replaced, and reclaim abandoned approaches.” Does yours accomplish this?

#8. Proposed Recommendation by Michelle Goodwine

“To remove abandoned abutments and piers when bridges are removed or replaced, and reclaim abandoned approaches.”

John Bailey: Yours is more specific to one thing. Dave’s is broader.

Michelle Goodwine: It's very broad, but I wonder if his also addresses that one? Could they be rolled in together?

John Bailey: We can also try to get consensus on both, and if we do, when we get to Step 3, resolve it. I worry sometimes that we're trying to resolve too much now, not building the base, because in Step 3 we go back and modify, and clean things up. And we may find trying to get recommendations on both that one passes and one doesn't, I don't know. Allan?

Allan Steinle: Michelle, are there situations where you have existing abandoned abutments and piers now; where the bridge has already been removed or replaced?

Michelle Goodwine: Yes.

Allan Steinle: And would your recommendation deal with those situations, or does it have to be tied into an active bridge replacement project?

Michelle Goodwine: So, what you're saying, Allan, is to then insert language for those that have already been removed and replaced to go back and apply this, the reclamation and the removal.

John Bailey: Do we need the last part, when bridges are removed or replaced?

Michelle Goodwine: No.

Andy Dana: The only other thing that I'd say is that it worked well for Brant and me to table the recommendation before, and talk about bringing back a combined recommendation. I don't know if you're close enough to do that, or whether you want to keep them separate, but that's the other option that we could do here.

Michelle Goodwine: I'm fine with that.

Dave Haug: Yes, I think we do need to go back and put non-used at the top of that, because I do have, like for our canals, I really felt that dropped the surface; I want that put in there.

Michelle Goodwine: Or abandoned, or something along that line?

Dave Haug: Yes, "...identify non-used artifacts, such as bridges, bridge abutments or other structures..."

John Bailey: Any further questions on the Recommendation #7? If not, let's move to Step 2 on this recommendation. I will read it: Recommendation #7, "Recommend that identified non-used artifacts, such as bridges, bridge abutments, or other structures that create backwater or safety hazards be removed and reclaimed, not necessarily requiring the funding to come from the owners of the artifacts."

Any questions or concerns from the Task Force?

Jerry O'Hair: I guess I have a little bit of a concern there. If the railroad takes out a bridge, they don't have to take it out, who's paying for it? Are the taxpayers going to pay for taking out the railroad bridge? Because it says, "not necessarily requiring funding to come from the owners." So, in that case, if I were the railroad I would say, "No, I'm not going to take it out, let the taxpayer take it out."

Dave Haug: I think in that case, the taxpayers may benefit; and a lot of these recommendations we are coming up with will be a benefit to the general public, and hopefully the taxpayers will benefit; and in some cases will cost them, and cost the Highway Department. Where the funding comes from, I don't know? Whether it's tax base or the Highway Department? I do think there's a mutual benefit to it, and if we leave it, and we don't do anything with it, they for sure won't take it out. They may cost share. We come back to the same deal like Ninth Street. The County doesn't feel it can afford to replace that bridge, if we require the County to do it, and I don't think that, maybe we get to know the funding more, and a combination of our mutual benefit.

John Bailey: Jerry, my sense of this recommendation, versus Michelle's, is this one talks about bridge abutments, and it talks about others, which could be an irrigation thing you have. My sense was he put that qualifier on there because he assumed no landowner would accept this recommendation; they'd be afraid that someone would come along and say, "You're going to pull this out, pull that out." That's the broadness of this recommendation, that part that he's put in. Michelle's is limited, so I ask the question if there's going to be people going along saying, "Jerry, you have these obsolete structures, take them out," and you're responsible, are you going to go for this recommendation? That was my sense why that was put in; I may be wrong.

Bob Wiltshire: Dave, I just see something here now. This was intended to get at something like the Ninth Street Bridge issue?

Dave Haug: Well, like the railroad bridge...

Bob Wiltshire: I want to just ask if Ninth Street Bridge would be included in this? If so, we have a problem, because we have not identified the Ninth Street Bridge as a non-used artifact.

Dave Haug: I know. It would be a safety concern down there.

Bob Wiltshire: But we said that it must be a non-used artifact.

John Bailey: Ninth Street is not an artifact, in my sense, at all. It needs its own recommendation.

Bob Wiltshire: So, this one is not intended to address that type of a situation?

John Bailey: It says non-used.

Dave Haug: It wasn't, originally, but I guess we changed it now. How can we word that?

Bob Wiltshire: Do you see what I'm saying?

John Bailey: We've got the recommendation now, okay? We're in Step 2, if you want to modify one word here...

Dave Haug: Can we modify it a little bit to address some of these comments?

John Bailey: Well, let's see where we stand on this? Let's see where we stand on these two recommendations, because we need to know what people think. Any other concerns? Sorry we're out of line. Are we comfortable over here?

Bob Wiltshire: I'll stand aside.

Andy Dana: I think I'm going to stand aside too.

Several voting Task Force members indicated that they were not comfortable with Recommendation #7.

John Bailey: So, we have some negatives. This recommendation lacks consensus. Now we're back into general discussion. We have one more recommendation, and I think we need to address it. Is there any further discussion on this one? Not hearing any, I'd like to move to Step 2. I'll read the recommendation: Recommendation #8, "To remove abandoned abutments and piers, and reclaim abandoned approaches."

Any concerns or questions from the Task Force on this recommendation? Are we comfortable with this?

Andy Dana: Is this directed at anyone in particular? Is this a recommendation that the Governor remove abandoned abutments and piers, or railroads? Just a clarification.

Michelle Goodwine: If it's a County bridge, it would be the County's responsibility; if it's a railroad bridge, it would be the railroad; if it's a DOT bridge, it would be the DOT's responsibility. And maybe that needs to be stated. I guess that's why, as I envisioned it, it was whoever's bridge it is is responsible for doing that work.

Brant Oswald: If we're dealing with this as a totally separate recommendation, it just seems like we've left out the reference to bridges here.

Michelle Goodwine: That's right, because originally I said, "when the bridges are being removed or repaired." So it was to say, "To remove abandoned bridge abutments and piers, and reclaim abandoned approaches when bridges are removed or replaced."

John Bailey: Is that the way it's supposed to be now?

Michelle Goodwine: I'm getting some help here from Bob. He's saying that I've become future only, when I put in "...when bridges are removed or replaced." So, if we take that back out, then I am referencing all of the abandoned bridge abutments, which was the intention.

#8. Proposed Recommendation by Michelle Goodwine

"To remove abandoned bridge abutments and piers, and reclaim abandoned approaches."

John Bailey: Let's go back to Step 1 here. We're back into a general discussion on this, because it's gotten considerably complex. I want to make certain people can respond to it.

Ed Schilling: Referring to this and the Springdale abutments in the river on both sides. I guess we're going back to the same way we addressed the other solution, is to put in there "develop solutions to remove abandoned bridge abutments and piers." We could get an alternative in there, some way of financing entities for doing it. Not looking at this one, but we were talking before, the railroad bridge out on Highway 89, not pertaining to this one at all, but also there are people out there that want to turn that whole railroad right-of-way going north into trails, riding trails, or whatever you call that. So I don't know if it would be to our advantage right now to tell the railroad to rip it out, when there are these other entities that would like to trade it to some type of a, possibly bicycle path, or any other use such as that.

John Bailey: Comments anyone?

Bob Wiltshire: Mine's so minor I hate to even say it, but I would ask Kelly to take off the very first "to".

Kelly Wade: Are you all right with that, Michelle?

Michelle Goodwine: Yes.

John Bailey: Other comments? Hearing none, we'll go back to Step 2, with a new recommendation. I will read it: Recommendation #8, "Develop solutions to remove abandoned bridge abutments and piers, and reclaim abandoned approaches."

Task Force, are there any concerns or questions related to this? Are we comfortable? I don't see a "no". This recommendation has consensus.

Recommendation #8 Passed by Consensus

"Develop solutions to remove abandoned bridge abutments and piers, and reclaim abandoned approaches."

Now we're back to general discussion.

Dave Haug: Starting over again on another recommendation?

John Bailey: Whatever anyone would like. It is now 9:34. I think we're making a lot of recommendations tonight, which is great. We said we were going to go through all our Topics of Consideration, which we haven't

looked at tonight. We have another meeting Wednesday, June 11th, and then our next meeting is July 15th. At the speed that we're going through Topics of Consideration, we will be meeting twice a week from July 15th on.

Bob Wiltshire: We are doing Roads and Crossings though, which is one of our topics.

John Bailey: Well, we forgot Flood plain and Riparian Vegetation. I want to bring it up because I think what we're doing is great, but we're not following the format we discussed.

Brant Oswald: I guess I have a procedural thing, John. When we do get to floodplain issues, I would love to take the lead on that, but I wonder whether that's an intelligent thing to do now. I think that is going to be one of the most important issues that we deal with, and I wonder if, I'd love to lead with some recommendations, but I'm not sure if 9:34 p.m. is the time to start that.

John Bailey: I don't know that we ever considered we finished Permitting, which we were working on the last time. We were kind of going down the list, so that's why I bring it up. I think it's wonderful that we're making recommendations, that's why we're here. But, as a group, you asked that we go through the Topics of Consideration, and we're not doing that tonight. And that's fine, as long as it's fine with you. But Liz and I have to have some sense of what we're going to do at the next meeting, and how many meetings we're going to have. I see us getting to August 1st and we'll just be getting to Large Woody Debris.

Andy Dana: Some of them are going to go fast.

John Bailey: I have no problem with what we're doing, but I want to be clear with everyone here that I'm a little concerned that you're going to be unhappy when we're meeting every week.

Andy Dana: I've got one for vegetation. I could throw it out and we can talk about it now or later.

#9. Proposed Recommendation by Andy Dana

"That additional studies should be designed and conducted to document the proliferation of noxious or invasive weeds along the river corridor, and to evaluate the impacts on fish, wildlife, water quality, soil and bank stability, and economic productivity."

The reason for that is that I think this is a sleeper issue that we never really addressed. It came up at times, but I see this as a major threat and dynamic in the river system now. It's changing the local ecology down in the flood plain substantially, and it has impacts to all of those, that we really don't understand well.

Roy Aserlind: Do you want to add any "elimination" clause or anything to that?

Andy Dana: No, I don't think we're there, because we don't know anything about these weeds.

Brant Oswald: This is one that I classify as a no-brainer. I'm trying to represent a constituency that includes both anglers and the environmental community, and I think this is one place that we do have a lot of common ground with all the ranchers and landowners and everyone else involved. I think this is a great recommendation.

John Bailey: Other comments, anyone? Ed?

Ed Schilling: Rather than "weeds," do you want to put "plants," or would it be specified as a weed, or do we care?

Andy Dana: Sure, "plants" would be fine. Change it to "plants."

John Bailey: Other comments? Hearing no further comments, we'll move to Step 2. I need to read the recommendation: Recommendation #9, "That additional studies should be designed and conducted to document the proliferation of noxious or invasive plants along the river corridor, and to evaluate the impacts on fish, wildlife, water quality, soil and bank stability, and economic productivity."

Any concerns or questions from the Task Force? Are we okay with this? This recommendation reaches consensus.

Recommendation #9 Passed by Consensus

"That additional studies should be designed and conducted to document the proliferation of noxious or invasive plants along the river corridor, and to evaluate the impacts on fish, wildlife, water quality, soil and bank stability, and economic productivity."

Now, back into general discussion.

Bob Wiltshire: John, back to where you were talking about our Topics of Consideration. Unless somebody's got something burning a hole in their pocket, I'd love to see if we can go back to Permitting and knock that off, if there's more that we need to do there still.

John Bailey: One of the things that we talked about last time is that just because we leave a topic, does not mean that someone can't make a recommendation on it.

Bob Wiltshire: Granted, John, but if nobody has anything on Permitting, I'd like to be able to not have it on the top of the list when we come back again next week.

John Bailey: I won't promise that. I meant to have one here tonight, but I never got it written. Sorry. Are there any other recommendations out there? Are we done with Permitting? Are we ready to move into Flood Plain? I think we just did, or did everyone wear out? Okay, Brant.

Brant Oswald: I just want to bring that subject up again. I would love to take the lead when we move into Flood Plain issues. I think it may deserve some substantial discussion, and I'm wondering if we're prepared to move to that.

John Bailey: Are we happy with Roads and Crossings, except you [Dave Haug] still want to work on yours at the next meeting?

Dave Haug: Probably. I think we probably need to address something on the Ninth Street Island Bridge.

John Bailey: Is someone ready to make a recommendation on Ninth Street tonight? Bob are you about to make one for Ninth Street?

Bob Wiltshire: No. I was just going to say that I thought there was some value in what Dave had, and I want to come back to that at some point.

John Bailey: Does anyone want to make a recommendation on Ninth Street tonight?

Roy Aserlind: It's like a surgeon operating on her child.

John Bailey: I don't hear someone. Are you ready to revisit yours Brant, or do we want to go home for the night?

Laurence Siroky: If Brant has got some on flood plains, it might give us a chance just to throw it out; and then we can think about it for the next meeting. I would recommend that as a procedure.

Brant Oswald: I'm perfectly willing to do that. I think maybe this will be a good way to introduce the topic, because this deserves some reflection; and I think we'll want to come back to this for some extended discussion; but I'd like to preface all this by saying that it seems like, as we get into some of the floodplain issues, we really get to the crux of what we're here to discuss. I looked back through last meeting's minutes and realized that I tried to pose a question to the Task Force then. And realized that we may have addressed it a little bit late in the meeting (where people were getting a little bit tired), but I think what we really need to do is think about all of these floodplain issues. I'm going to give you an extremely simple recommendation, and

I've left it extremely simple because I think we'll need to have a lot of discussion. My recommendation is that we,

#10. Proposed Recommendation by Brant Oswald

"Restrict or strongly discourage any new development in the flood plain."

The few comments that I want to make before we get started; one, is that I want to emphasize the word "new," because I think one of the things that we need to look at is—as I said last time, as I've thought about this over the last couple of weeks, one of the things we're really trying to deal with in the whole Task Force process—to try to come together and recognize the needs of individual landowners, but at the same time, recognize how the resource works. That's not an easy task that we've placed for ourselves. But it seems that one of the ways that we can be conservative is to try to avoid as many problems as possible, and it seems that restricting new development in the flood plain is one of the best ways to go about it. In the studies that we've seen in the last year, we have seen the way some of the processes work, and it seems that we can consider ourselves lucky in that we have an ecosystem that is working fairly well. We have a healthy fishery, a resilient fishery, that's gone through droughts and floods. We have a riparian corridor with problems, but certainly not irreparable problems, at least at that point. The reason I wanted to throw it out in such a sparse format here, is that I'm not really sure exactly how we get at all these issues; and again, I'm really inviting lots of comments from the Task Force to see how we get here. As we go forward, one of the things we've said is that even though there have been a substantial number of modifications in the flood plain, at least to this point, we haven't seen too many seriously bad effects. Although again, we've recognized that some of the structures that may have gone in (some of the stabilization projects that have gone in in the last few years), we may not see those effects immediately. But one of the ways that we avoid conflict long term, is to simply limit the amount of development that goes on in the flood plain. That's as much as I'll have to say to get us started, to see where we go.

Andy Dana: How do you define development?

Brant Oswald: That was a conscious decision to leave it as general a term as I possibly could, to be perfectly honest. Again, my understanding and I'll rely on some of our ex-officio members to try to give us some direction here, to try to figure it out—I know we're going to be looking at new floodplain maps—but certainly one of the ideas that I had when I thought about this is, since I'm representing the environmental community, certainly some of our concerns are to limit the amount of stabilization that's done on the river; in case we do see harmful effects from some of those projects. On the other hand, as I was thinking about this, certainly as a fishing outfitter, one of the things that I would like to see in the valley is maintenance of some open space, and I certainly see agriculture and the ranching community as one of the best ways—trying to allow them to remain viable—we can do that. It seems to me, as I mentioned, we're talking about new development. There are economic interests that need to be protected, that are out there now, and one of the best ways to preserve the ability for those agricultural interests (to be able to get the permits when they need them), is not to allow a lot of what I would consider unwise, development; whether that's—and I think, at least what I have in my mind, and I think we'll need to discuss it—but certainly, probably, more residential development is what I have in mind. That would make it much more difficult in the future, if we have too much development that then requires more and more stabilization projects. I think it would be harder, down the line, for those agricultural interests to come back and get the permits that I would think would really be economically important.

Jerry O'Hair: How would you address loss in land value, loss in overall net worth?

Brant Oswald: Like I said, Jerry, these are the kinds of comments that I want to discuss, and I'm not sure what the answer is to that. I want to hear your concerns and see what they are.

Jerry O'Hair: That's one of my concerns. Somewhere, you've got to address the loss in net worth, land value, borrowing power. I think that is one of the things that has got to be addressed in this recommendation.

Dave Haug: I also have a concern. Anytime you take away a right, you're taking away a property right, you're taking away value. To prevent anything new happening, even though in some cases I'm against some of the new development; but I hate to just draw a line in the sand in that way. And I guess I'd probably be opposed to that because of the devaluation of the land. Like Jerry says, what happens if somebody has a piece of land

and they can't let their kid put a house out there? Or even though it's a family farm, the kid can't do anything out there either. Things like that, I have some questions and problems with it.

Michelle Goodwine: I want to add something to that too. Because, really, the way this reads now, a real strict interpretation could mean that somebody who lives in the Riverside Addition (down on the lower east side of town) couldn't even put up a new garage. New development could even mean a deck, and this is inside the city limits; so I think that that is very restrictive, which might not even be your intention. But the way this reads, it could be interpreted that way.

Brant Oswald: Well, as I said, I really am throwing this out, not as a recommendation—because I have a feeling we're not going to reach consensus as it stands—but what I really wanted to do was to try to tease out some of the issues. I think we need to discuss floodplain development, what's going to happen in the flood plain. And I think really, my first attempt here, as I said last time, is that I simply want to see what sorts of issues that we need to deal with when we go forward from here.

John Bailey: Development, in my mind, it is so broad that it means any new highway, any new bridges, almost any public infrastructure is development. I think it is even so broad that someone in agriculture could go out in the fields and put a whole new kind of crop in that someone would call new development. It just seems so broad that it has no weight. I think Andy's question about how do you define development is a good one; you don't have a definition, and I think everyone has a different definition of what that is. My sense is that that word is so broad that I don't know how you can grapple with this.

Brant Oswald: One of the things that I would encourage people to do is certainly to contact me with these sorts of issues. I would love to try to bring some of these things back, but my hesitation is in doing this at a quarter-to-ten at night. Some of the ideas you've given me already are going to help me reformulate a later recommendation, but I would encourage all of you to try to give me ideas and call up your objections to this, because I think we need to discuss those issues.

John Bailey: The approach may be better to define specific things. Get a bunch of those, where we'd start to see where there is a consensus. Then we develop an overview. You're trying to start with the big picture, and get to the little one, and I'm not sure with this group that you'll get there that way.

Brant Oswald: Your point is well taken.

John Bailey: If you look at how we're dealing with bridges, if it's not too broad, we weren't getting consensus. When we got narrow, we got consensus. I suspect that if we have more recommendations on bridges, which I suspect we're going to; then when we get to Step 3 we may then put some kind of umbrella over it. We may not, they may not come together, but they may.

Bob Wiltshire: I don't disagree with anything that John just said, and I think, Brant, from what I understand you saying, you're hearing the kind of comments that you were hoping to hear from this. The thing that I would like to do, though, is reemphasize what you said, that if we don't do something about floodplain development, it's going to just continue. It might continue at a trickle, or it might continue at a flood, but it is going to continue. If we look far enough down the road, that's only going to lead to more and more of the types of problems that we're trying to avoid. If we can't find some proactive ways to figure something out on floodplain development, I think we've got a problem.

Brant Oswald: My only final comment was, you're right. These are the sorts of issues that I wanted to bring out, and I think if we fail to reach consensus, and I think what you're coming to, Bob, is that if we fail to reach consensus on anything in our discussion of floodplain development, then we will have missed one of our charges in serving on the Task Force. It's not an easy one, I understand that.

John Bailey: One recommendation I have is that there are two terms: "floodway" and "flood plain," and I think as we're talking about this, we need to be certain which one we're talking about. The law certainly addresses these differently. I'm assuming that you're just talking broad, but as these recommendations roll out, we need to do that.

Bill Moser: Between the I-90 freeway and mile marker 48 on Highway 89, how much of Highway 89 is now in the new flood plain? Are there stretches of that road that would be in the flood plain?

Laurence Siroky: I can't place where you're talking about right now, but if you come to the July 15th Task Force meeting, we're going to have a booklet that'll go out to the Task Force members and we'll have the maps up on the wall, that show the floodway and the flood plain. The floodway is the center section of the river that carries the major part of the flow, it's the high depth and velocity definition. The flood plain will be shown in a different color on these maps, so you can look at that specifically. The way our State statute is written, and the counties adopt those ordinances, is that you can't put a residential structure or any type of structure that causes an increase in water level at all, zero, in the floodway. In the flood plain, in the State law, you can put a house there, as long as the floor is elevated a foot-and-a-half or two feet above the base flood elevation. Now I think Park County has adopted an ordinance that they won't approve a subdivision for houses in the 100-year flood plain, is that correct? So your County has adopted more stringent regulations than the State.

Michelle Goodwine: Getting to your question, none of the road is in the flood plain because it is all elevated above the flood plain. So even if it borders the water, it's still outside of the flood plain because it has been elevated.

Bill Moser: But then the water, west of there, or north of there, or the land north and west of there would be back in the flood plain if the road weren't there?

John Bailey: When we see the maps, the answers become more apparent. Okay? The maps have not released to the public yet. I'm not sure of the answer to your question either. I think some of it is, but until we see the maps, who knows?

Laurence Siroky: The maps are still coming, I want to reemphasize that these are "preliminary" maps, only.

Andy Dana: Just a general comment for some feedback for Brant. I understand and sympathize with the motivation behind the proposal, but one thing that I've been struggling with, and you may have been too is that we've got all this science. We've got studies coming out of our ears now, which suggest that the river, we may look at different aspects of the river differently, both in different reaches, but also in different proximity to the active channel. And instead of coming up with a blanket proposal about restricting things in the flood plain, I think the real challenge we face is how to tie the science to justifications for restricting the private property rights that Dave and Jerry mentioned are a major concern, while still meeting some of the public interests, classically called the public interest criteria. I don't know that there is a good way to do that, but I think that's the challenge that we face. If we're going to get any further, beyond the normal disputes that come up between zoning and no zoning, and floodplain development and no floodplain development, and so forth. I guess I don't have a solution; it's just a comment.

Bob Wiltshire: This has nothing to do with flood plain. I have a procedure question, I don't even know if that's the right term, but the Task Force received a letter from Bill Moser, and in that letter I was identified as a Task Force member to carry his concerns, and I'm wondering, in situations like that, do I have an obligation there to develop a recommendation that we consider, or how do we move forward on things like that? It's the first time it has come up; and so I'm not sure whether I just get with Bill and see if we can agree on a recommendation that I carry, or what?

John Bailey: Whatever suits you.

Bob Wiltshire: Okay.

John Bailey: It's not my place to tell you what you may or may not do.

Bob Wiltshire: So, we're outside the realm of any sort of Task Force process?

John Bailey: I think we all represent whomever it is we represent.

Lionel Dicharry: I have a question for Brant, that I'm hoping will clarify things a bit. I appreciate the fact that he had a great deal of difficulty in trying to make the statement as concise as it is. The choice of the term "any new development" obviously came with a great deal of deliberation on your part. I would ask the question therefore, when you chose the term "new development", were you thinking human structures?

Brant Oswald: Yes.

Lionel Dicharry: I think, then, that says something about how the final recommendation, the words that you use to construct your final recommendation, will have to be fashioned. If that, in fact, is what you want to carry here. Because, as you already heard, there's a great deal of uncertainty about the term, "new development," and how it might affect individual landowners. That's the only point I would make, based on your answer.

John Bailey: Any other comments? If not, we're adjourned, and we'll be back here a week from Wednesday.

Note: See *Attachment B* for summary of recommendations that have reached consensus.

VI. Next Task Force meetings:

June 11th, 2003, Wednesday– Task Force Recommendation Deliberations

Location: Yellowstone Inn

July 15th, 2003, Tuesday – Task Force Recommendation Deliberations

Location: Yellowstone Inn

VII. The meeting was adjourned at 10:15 p.m.

Attachment A. Steps for Formal Action on Task Force Recommendations

On April 29, 2003, the Governor's Upper Yellowstone River Task Force adopted the following process for development of recommendations and for adoption of final recommendations to be submitted to the Governor.

1. General Discussion Session to Develop Recommendations

- a. The Task Force will convene meetings to consider proposed recommendations that pertain specifically to the *Topics of Consideration* list previously adopted. The Task Force Chair will oversee and run each meeting according to the procedures set forth below. Issues, comments, concerns, and draft recommendations related to the *Topics of Consideration* under discussion, which have been raised and recorded after the eight research presentations, will be revisited by the Task Force and the public. New comments, concerns, and recommendations may also be raised and recorded.
- b. Task Force members speak first and when they have no further comments, members of the public will be asked for their comments. The Task Force Chair is responsible for ensuring comments remain concise and that they relate to the *Topics of Consideration* under specific discussion.
- c. Upon conclusion of the comment and discussion period in each meeting, the Task Force will propose recommendations formally in accordance with the procedures set forth in Paragraph 2 below.

2. Formal Actions on Recommendations

- a. All recommendations must be proposed by a voting Member of the Task Force and must be clearly stated and recorded.
- b. The Task Force Chair restates each recommendation made and asks the Task Force for final concerns and questions relating to each recommendation.
- c. The Task Force Chair calls for consensus on each recommendation made.
- d. The Task Force formally adopts recommendations that achieve consensus, subject only to modification at the final meeting as set forth in Paragraph 3 below.
- e. If any recommendation fails to achieve consensus, the Task Force may continue to consider that recommendation and may again seek consensus after further discussion, may defer action on the recommendation until a future meeting, or may decide to abandon the effort to obtain consensus on that particular recommendation. (Note: Task Force Ground Rules: Participants who disagree with a proposal are responsible for offering a constructive alternative that seeks to accommodate the interests of all other participants.)

3. Adoption of Final Set of Recommendations

- a. Prior to finalizing its recommendations to be forwarded to the Governor, the Task Force will accept public comment (written only) on the recommendations previously adopted in Step 2.
- b. At its last meetings during which the Task Force finalizes the complete set of recommendations to be forwarded to the Governor, Task Force Members may not propose new recommendations but may propose modifications, amendments, or deletion of any of the previously adopted recommendations in Step 2 for any reason, including but not limited to:
 - i. To address concerns expressed by a Task Force Member's constituency or the public about the original recommendation;
 - ii. To eliminate potential conflicts between recommendations;

- iii. To delete redundant or duplicative recommendations;
 - iv. To integrate scientific studies and data more efficiently into the recommendations; or
 - v. To correct clerical, typographic, transcription, grammatical, or rhetorical errors.
- c. The Task Force will adopt for transmittal to the Governor a complete set of recommendations based on the individual recommendations adopted by consensus pursuant to Step 2 above, as such recommendation may be modified, amended, or deleted by consensus pursuant to Step 3b above.
- d. The final set of recommendations must be approved by the Task Force for transmittal to the Governor by consensus.

Attachment B. Task Force Recommendations

June 2, 2003

Consensus was reached on the following Task Force Recommendations.

Note: These recommendations are subject to final adoption under Step #3 of the *Steps for Formal Action on Task Force Recommendations* (see footnote below for details).

Recommendation 5/22/03—Passed by Consensus

“Create a local Bank Stabilization Information Clearinghouse to provide information about new and existing methods of bank stabilization, including methods that complement the natural system and methods that might be appropriate for specific individual situations.”

Recommendation 5/22/03—Passed by Consensus

“The Task Force recommends that future decisions be made only after thorough consideration has been given to the geomorphology of particular river reaches and their different inherent characteristics.”

Recommendation 5/22/03—Passed by Consensus

“That studies be developed which would indicate what types of bank stabilization would work best to achieve particular goals within different geomorphic reaches of the upper Yellowstone River.”

Recommendation 5/22/03—Passed by Consensus

“That the existing streamlined uniform permit application process be continued among local, state, and federal permitting agencies.”

Recommendation 5/22/03—Passed by Consensus

“Establish financial incentives to help landowners, on a voluntary basis, to remove structures that no longer function properly or are obsolete.”

Recommendation 6/2/03—Passed by Consensus

“Establish financial incentives to help landowners, on a voluntary basis, to modify or replace existing structures provided that such modified or replaced structures eliminate or mitigate undesirable impacts on the riparian system.”

Recommendation 6/2/03—Passed by Consensus

“Modify or replace existing public structures that have undesirable impacts on the riparian system, provided that such modified or replaced structures eliminate or mitigate those undesirable impacts with no significant adverse effects on existing public or private entities.”

Recommendation 6/2/03—Passed by Consensus

“Implement a solution to achieve hydraulically-balanced water surface elevations, with little or no backwater, in the channels separated by Ninth Street and Siebeck Islands.”

Recommendation 6/2/03—Passed by Consensus

“Recommend that when the following bridges are replaced or removed, hydraulic impacts identified in the Geomorphology study be lessened: Emigrant Bridge; Carter’s Bridge; Interstate-90 Bridge; Railroad Bridge at Highway 10 East; Highway 10 East Bridge; Highway 89 Bridge near the Shields River; Railroad Bridge at Highway 89; and Springdale Bridge.”

Recommendation 6/2/03—Passed by Consensus

“Develop solutions to remove abandoned bridge abutments and piers, and reclaim abandoned approaches.”

Recommendation 6/2/03—Passed by Consensus

“That additional studies should be designed and conducted to document the proliferation of noxious or invasive plants along the river corridor, and to evaluate the impacts on fish, wildlife, water quality, soil and bank stability, and economic productivity.”

Step #3. Adoption of Final Set of Recommendations

- a. Prior to finalizing its recommendations to be forwarded to the Governor, the Task Force will accept public comment (written only) on the recommendations previously adopted in Step 2.
- b. At its last meetings during which the Task Force finalizes the complete set of recommendations to be forwarded to the Governor, Task Force Members may not propose new recommendations but may propose modifications, amendments, or deletion of any of the previously adopted recommendations in Step 2 for any reason, including but not limited to:
 - i. To address concerns expressed by a Task Force Member’s constituency or the public about the original recommendation;
 - ii. To eliminate potential conflicts between recommendations;
 - iii. To delete redundant or duplicative recommendations;
 - iv. To integrate scientific studies and data more efficiently into the recommendations; or
 - v. To correct clerical, typographic, transcription, grammatical, or rhetorical errors.
- c. The Task Force will adopt for transmittal to the Governor a complete set of recommendations based on the individual recommendations adopted by consensus pursuant to Step 2 above, as such recommendation may be modified, amended, or deleted by consensus pursuant to Step 3b above.
- d. The final set of recommendations must be approved by the Task Force for transmittal to the Governor by consensus.